

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File Number EB-02-OR-274
)	
Metropolitan Radio Group, Inc.)	NAL/Acct. No.200332620003
Licensee of FM Broadcast Station KTKC located)	
in Springhill, Louisiana)	FRN 0007-0069-84
Springfield, Missouri)	

FORFEITURE ORDER

Adopted: May 10, 2004

Released: May 12, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of twelve thousand dollars (\$12,000), to Metropolitan Radio Group, Inc. (“Metropolitan”), licensee of Station KTKC-FM, Springhill, Louisiana, for willful violation of Sections 73.1125(a) and 73.3526(b) of the Commission’s Rules (“Rules”).¹ The noted violations involve Metropolitan’s failure to maintain the required staff and management presence at the station’s main studio and failure to maintain all of the required material in the station’s public inspection file.

2. On November 19, 2002, the Commission's New Orleans, Louisiana, Field Office ("New Orleans Office") issued a *Notice of Apparent Liability for Forfeiture* ("NAL")² in the amount of twelve thousand dollars (\$12,000) to Metropolitan. Metropolitan filed its response on December 19, 2002.

¹ 47 C.F.R. §§ 73.1125(a)(a) , 73.3526(b).

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332620003 (Enf. Bur., New Orleans Office, released November 19, 2002).

II. BACKGROUND

3. On September 10, 2002, an agent from the New Orleans Office sought to inspect KTKC-FM's main studio. He contacted the station's operations manager and said he needed to go to the station's main studio where the public file was located and the station maintained a presence to deal with the public. KTKC-FM's operations manager informed the agent during that telephone conversation that KTKC-FM's main studio was located at 924 Plain Dealing Road, Springhill, Louisiana, and that the studio at that location was presently unoccupied but he could meet the agent there in 20 minutes. In response to the agent's question regarding where he was, the operations manager stated that he was at 541 S. Main Street. The agent stated directly to KTKC-FM's operations manager that he needed to inspect the station's main studio. The operations manager again stated that the location of the main studio was 924 Plain Dealing Road. The agent proceeded to 924 Plain Dealing Road to inspect the main studio and met the operations manager there. During the inspection, the operations manager told the agent that Metropolitan maintained no staff presence at 924 Plain Dealing Road and that KTKC-FM staff visited that location twice each day to take transmitter meter readings. The agent again asked the operations manager whether the facility located at 541 S. Main Street, Springhill, Louisiana, could be considered KTKC-FM's main studio and the operations manager stated unequivocally that it could not be considered KTKC-FM's main studio. The operations manager further stated that KTKC-FM's public file was not maintained at 541 S. Main Street. When asked about the lack of staff presence at 924 Plain Dealing Road, the operations manager responded that, if he received a telephone call from a person who wanted to visit KTKC-FM's main studio, he would make an appointment to meet the person at 924 Plain Dealing Road. An inspection of the station's public inspection file, located at 924 Plain Dealing Road, revealed that it was missing much of the required material including the most recent ownership report, the Public and Broadcasting Manual, letters and comments from the public, and the Issues and Programs Lists.

4. On November 19, 2002, the New Orleans Office issued the *NAL* in the amount of twelve thousand dollars (\$12,000) to Metropolitan. Metropolitan filed its response on December 19, 2002. In that response, Metropolitan seeks cancellation or reduction of the proposed forfeiture. Metropolitan now asserts that on September 10, 2002, KTKC-FM was in the process of moving from 924 Plain Dealing Road to 541 S. Main Street when the agent inspected the station. Further, Metropolitan states that KTKC-FM's main studio was located at 541 S. Main Street, Springhill, Louisiana, that it maintained the required staff and management presence at the main studio, and that it maintained a nearly complete public file at 541 S. Main Street. In addition, Metropolitan argues that, if a forfeiture is imposed, the amount should be reduced because of the "inconsequentiality" of the offense.

III. DISCUSSION

5. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended ("Act"),³ Section 1.80 of the Rules,⁴ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"). In examining Metropolitan's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.⁵

6. Section 73.1125(a) of the Rules requires that every broadcast station licensee maintain a main studio for the station. To serve the needs and interests of the residents of the station's community of license, the licensee must maintain a full-time staff and managerial presence during normal business hours.⁶ Metropolitan now claims that, on September 10, 2002, its main studio was located at 541 S. Main Street, Springhill, Louisiana, where it maintained the required staff and management presence. On September 10, 2002, however, KTKC-FM's operations manager identified 924 Plain Dealing Road, Springhill, Louisiana, as the location of KTKC-FM's main studio and repeatedly stated to the agent that the location at 541 S. Main Street did not meet the FCC's requirements for a main studio location. Based on the operations manager's contemporaneous statements, we conclude that, on September 10, 2002, KTKC-FM's main studio was located at 924 Plain Dealing Road, Springhill, Louisiana. It is undisputed that there was no staff or managerial presence at 924 Plain Dealing Road on that date. Accordingly we conclude that Metropolitan had no staff or managerial presence at KTKC-FM's main studio on September 10, 2002, in willful⁷ violation of Section 73.1125(a) of the Rules.

7. Section 73.3526(b) of the Rules requires commercial broadcast stations to maintain a public inspection file at the main studio of the station. It is undisputed that the public file available at 924 Plain Dealing Road, Springhill, Louisiana, during the inspection of that facility on September 10, 2002, was missing much of the required material including the most recent ownership report, the Public and Broadcasting Manual, letters and comments from the public, and the Issues and Programs Lists. We conclude that Metropolitan did not maintain a complete public inspection file at KTKC-FM's main studio, in willful violation of Section 73.3526(b) of the Rules.

8. No reduction of the proposed monetary forfeiture is warranted on the basis that Metropolitan's violations were "inconsequential." Metropolitan's lack of staff and managerial presence at its main studio and its incomplete public file were significant violations.

9. We have examined Metropolitan's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement* as well. As a result of our review, we conclude that Metropolitan willfully violated Sections 73.1125(a) and 73.3526(b) of the Rules and that neither cancellation nor reduction of the proposed \$12,000 monetary forfeiture is warranted.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ *Jones Eastern of the Outer Banks, Inc.*, 6 *FCC Rcd* 3615, 3616 and n.2 (1992), clarified, 7 *FCC Rcd* 6800 (1992).

⁷ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act" See *Southern California Broadcasting Co.*, 6 *FCC Rcd* 4387 (1991).

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁸ Metropolitan Radio, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twelve thousand dollars (12,000) for willfully violating Sections 73.1125(a) and 73.3526(b) of the Rules.

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁹ Payment shall be made by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200332620003, and FRN 0007-0069-84. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

12. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, and by First Class Mail to Metropolitan Radio Group, Inc., Mark L. Acker, President, 318 East Pershing Street, Springfield, Missouri 65806.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

⁹ 47 U.S.C. § 504(a).

¹⁰ *See* 47 C.F.R. § 1.1914.